

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,

v.

LEONARD HOLLINGSWORTH, *et. al.*,
Defendants.

No. CR11-183RSL

ORDER DENYING
DEFENDANTS' MOTIONS
FOR JUDGMENTS OF
ACQUITTAL

This matter comes before the Court on Defendant Larsell Hollingsworth's "Motion for Judgment of Acquittal after Jury Verdict" (Dkt. # 234) and "Defendant Leonard Hollingsworth's Motion and Supporting Memorandum for Judgment of Acquittal after Jury Verdict" (Dkt. # 235). The Court DENIES each motion.

I. DISCUSSION

The Court presumes the parties are familiar with the facts of this case. In short, after a six-day jury trial, both Defendants were found guilty of multiple counts of wire fraud in violation of 18 U.S.C. § 1343 and 18 U.S.C. § 2.

Nevertheless, now, as at trial, each argues that he is entitled to a judgment of acquittal because the United States presented insufficient evidence that "the defendant used, or caused to be used, a wire communication in interstate or foreign commerce to further the scheme." Mot. (Dkt. # 234); Mot. (Dkt. # 235). Again, the Court disagrees.

1 The Court must affirm the jury's verdict if "after viewing the evidence in the
2 light most favorable to the prosecution," the Court concludes that "any rational trier of
3 fact could have found the essential elements of the crime beyond a reasonable doubt."
4 Jackson v. Virginia, 443 U.S. 307, 319 (1979). And, in this case, sufficient evidence
5 exists to allow a reasonable juror to conclude that each Defendant knew, or could
6 reasonably have foreseen, that his actions would result in Lowe's use of the wires. See
7 Ninth Circuit Model Jury Instruction 8.101 (modified per the Committee's note to Ninth
8 Circuit Model Jury Instruction 8.103). As the United States notes in its Response:

9 [T]he government presented evidence that each time a return
10 transaction was made it was made at a computerized register, and that
11 the process for making a return was as follows

12 1. The cashier scans the bar code of the merchandise to be
13 returned to confirm that it is merchandise carried by Lowe's;

14 2. The cashier then requests a valid driver's license or
15 identification card and enters the number from the identification
16 materials into the computer, which tracks the total number of returns
17 made using that identification number;

18 3. If the computer permits the individual to make a return of the
19 merchandise – that is, if the computer does not refuse the return
20 because the individual has made too many returns of high-theft
21 merchandise in a given period of time – then the cashier issues store
22 credit to the customer in the form of a merchandise card;

23 4. If the amount of the return exceeds approximately \$125, then
24 the cashier telephones or calls a manager over to approve the
25 transaction;

26 5. The cashier selects an "inactive" merchandise card and
scratches off a pin number on the back of a merchandise card, enters it
into the computer register; and

6. The cashier swipes the merchandise card through the
computer to activate it.

Dkt. 245 at 4.

1 Furthermore, “[t]he government offered video evidence showing Defendants at
2 the computer register making a return, and in many instances watching the actions of the
3 cashier as he/she processed the return and issued a merchandise card to the Defendants.”

4 Id. And, perhaps most importantly,

5 Leonard and Larsell Hollingsworth, and the other co-schemers, altered
6 their identification cards and driver’s licenses: to conceal from Lowe’s
7 **computer system** that they had made numerous prior returns without a
8 receipt. In other words, the very nature of the scheme – to alter
9 identification numbers to circumvent the computer systems fraud
10 prevention measures – showed beyond any doubt that Leonard and
11 Larsell Hollingsworth understood that Lowe’s kept this information
12 electronically, shared it immediately with other Lowe’s stores
13 throughout the area, and later could access the information
14 electronically at any of the Lowe’s stores. That such information was
15 shared and recorded could only have been done through the sharing of
16 electronic and digital information; that is, by wire communication.

17 Id. at 5 (second emphasis added).

18 II. CONCLUSION

19 For the foregoing reasons, and each of the additional reasons cited by the United
20 States in its Response, Dkt. # 245, the Court DENIES each Defendant’s motion.

21 DATED this 1st day of March, 2012.

22 

23 Robert S. Lasnik
24 United States District Judge